



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes 310090367

Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on November 11, 2022 wherein the Tenant sought to dispute a rent increase.

The hearing of the Tenant's Application was scheduled for 1:30 p.m. on March 24, 2023. Only the Tenant called into the hearing. As the Landlord failed to call into the hearing, I considered service of the application package.

During this discussion it became apparent the Tenant did not recall making the application which was the subject of the hearing before me. The Tenant filed a subsequent application on March 2, 2023 which is scheduled for June 20, 2023 (the file number for that matter is included on the unpublished cover page of this my Decision). That application deals with the request to cancel a 1 Month Notice to End Tenancy for Cause. The Tenant confirmed that she served the Landlord with that application on March 10, 2023 and further confirmed the hearing date of June 20, 2023. Branch records indicate she was reminded of the hearing on today's date, but mistook this hearing for the March 2, 2023 application.

Rule 3.1 of the *Residential Tenancy Branch Rules of Procedure* provides as follows:

3.1 Documents that must be served

The applicant must, within 3 days of the hearing package being made available by the Residential Tenancy Branch, serve each respondent with copies of all of the following:

- a) the application for dispute resolution;

- b) the notice of dispute resolution proceeding letter provided to the applicant by the Residential Tenancy Branch;
- c) the dispute resolution proceeding information package provided by the Residential Tenancy Branch;
- d) a detailed calculation of any monetary claim being made;
- e) a copy of the Notice to End Tenancy, if the applicant seeks an order of possession or to cancel a Notice to End Tenancy; and
- f) any other evidence, including evidence submitted to the Residential Tenancy Branch with the application for dispute resolution, in accordance with Rule 2.5 [*Documents that must be submitted with an application for dispute resolution*].

Section 89 of the *Residential Tenancy Act* provides as follows:

89 (1) An application for dispute resolution or a decision of the director to proceed with a review under Division 2 of Part 5, when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;
- (e) as ordered by the director under section 71 (1) [*director's orders: delivery and service of documents*].

As the Tenant failed to serve the Landlord in accordance with the *Rules* and the *Act*, the Landlord was not given notice of the hearing. One of the Principles of Natural Justice is that a party to a dispute has the right to know the claim against them and an opportunity to attend the hearing and make submissions in defense of the claims made. The *Act* contains specific rules about service in section 89 to ensure that this principle is observed.

As the Tenant did not serve the Landlord with her Application filed November 11, 2022, nor did the Tenant serve the Landlord with notice of today's hearing on March 24, 2023, **I dismiss her November 11, 2022 claim related to the rent increase with leave to reapply.**

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 24, 2023

Residential Tenancy Branch